

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EDWARD JONES,

Petitioner,

No. C 07-2249 PJH (PR)

vs.

B. CURRY, Warden,

Respondent.

**ORDER DENYING MOTION
FOR CERTIFICATE OF
APPEALABILITY**

Petitioner's habeas petition was denied in an order entered on September 27, 2010. The court denied a certificate of appealability ("COA") in the order. On October 19, 2010, petitioner filed a motion for a COA, despite the fact that he had been told in the order that if he wanted to appeal he should file a notice of appeal and ask the Ninth Circuit Court of Appeals to issue a COA. He has not filed a notice of appeal.

The motion for a COA (document number 47 on the docket) is **DENIED** as moot. For purposes of case handling, the request for a COA will be treated as a notice of appeal, although whether it is adequate to confer appellate jurisdiction on the court of appeals is a matter for that court. See *Tinsley v. Borg*, 895 F.2d 520, 523 (9th Cir. 1990) (treating pro se motion for a certificate of probable cause as notice of appeal). Because this court has declined to issue a certificate, the clerk shall forward the case file to the court of appeals, including the motion for a COA, the September 27 ruling, and this order. See Fed. R. App. P. 22(b); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).

IT IS SO ORDERED.

Dated: January 27, 2011.



PHYLLIS J. HAMILTON
United States District Judge